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Attorneys for Defendants
 CHARLES FREDERICK HARTZ dba PAUL'S
 SPARKLE CLEANERS and CHARLES F. HARTZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PALMTREE ACQUISITION CORPORATION, Case No. CV 08 3168 EMC
 a Delaware corporation,

Plaintiff,

vs.

**STIPULATION AND [PROPOSED]
 ORDER RE ANSWERS TO SECOND
 AMENDED COMPLAINT**

MICHAEL R. NEELY, an individual; PERRY J.
 NEELY, an individual; GARY NEELY, an
 individual; MICHAEL R. NEELY, PERRY J.
 NEELY and GARY NEELY dba MIKE'S ONE
 HOUR CLEANERS; CHARLES FREDERICK
 HARTZ dba PAUL'S SPARKLE CLEANERS;
 CHARLES F. HARTZ, an individual;
 MULTIMATIC CORPORATION, a New Jersey
 corporation; WESTERN STATES DESIGN, a
 California corporation; MCCORDUCK
 PROPERTIES LIVERMORE, LLC, a Delaware
 limited liability company individually and as the
 successor to JOHN MCCORDUCK ,
 KATHLEEN MCCORDUCK, PAMELA
 MCCORDUCK, SANDRA MCCORDUCK
 MARONA, and IMA FINANCIAL
 CORPORATION, a California corporation;
 JOHN MCCORDUCK individually;
 KATHLEEN MCCORDUCK individually;
 PAMELA MCCORDUCK individually;
 SANDRA MCCORDUCK MARONA
 individually; IMA FINANCIAL
 CORPORATION, a California corporation;
 STARK INVESTMENT COMPANY, a
 California general partnership; GRUBB &
 ELLIS REALTY INCOME TRUST,

LIQUIDATING TRUST, a California trust; and
DOES 1-20, inclusive,

Defendants.

AND RELATED ACTIONS

RECITALS

A. Plaintiff Palmtree Acquisition Corporation filed this action (“Action”) as a “reopener” of a prior action that was conditionally settled, which prior action was filed on February 3, 1993 in the United States District Court for the Northern District of California, entitled *Grubb & Ellis Realty Trust v. Catellus Development Corp., et al.*, and related cross-actions, Case No. C93-0383 SBA (“Prior Action”).

B. In the course of litigating the Prior Action, the parties to the Prior Action engaged in discovery relating to the factual background, ownership and operations of certain of the parties to the Prior Action and their conduct which may have resulted in the PCE contamination.

C. On February 7, 1994, the parties to the Prior Action entered into a settlement agreement (“1994 Settlement”). On February 17, 1994, this Court entered an order approving the settlement agreement and dismissing the Prior Action.

D. Pursuant to the 1994 Settlement, the parties agreed that the release amongst each other would not extend to:

...any claims, causes of action, obligations, damages, expenses or liabilities resulting from (1) claims or cross-claims arising from actions brought by third parties after the date of this agreement relating to PCE [perchloroethylene] contamination at the properties, or (2) actions by governmental agencies requiring cleanup of PCE contamination or seeking recovery of governmental response costs for the cleanup of PCE contamination: (a) of the deeper aquifer as defined in Paragraph 5 of SCO [Site Cleanup Order], or (b) in the form of DNAPLs, defined as PCE found in pore-water concentrations which exceed

1 their effective solubilities as measured using the residual DNAPL detection
2 method of Feenstra, Mackay, and Cherry (1991). The limitations expressed in
3 the preceding sentence on the release contained in this paragraph are referred to
4 as “the Paragraph 9 reopeners”.

5 E. On March 17, 2008, and March 21, 2008, the California Regional Water
6 Quality Control Board (“RWQCB”), a governmental agency, sent letters to certain of the
7 defendants and the plaintiff, and/or their predecessors, requiring the further investigation and
8 monitoring of PCE contamination which potentially impacted the deeper aquifer that may be
9 in the form of DNAPLs, thereby triggering the “Paragraph 9 reopeners” (“RWQCB
10 Directives”). As a result of the RWQCB Directives, certain parties to the prior 1994
11 Settlement, made a demand upon other parties asserting that the Paragraph 9 reopener applied
12 and demanding that they respond to the RWQCB Directives.

13 F. On July 1, 2008, plaintiff Palmtree Acquisition Corporation, the successor to
14 one of the 1994 Settlement parties, Catellus Development Corporation, filed a Complaint for
15 CERCLA Cost Recovery, Damages and Declaratory Relief, seeking contribution and
16 damages (“the Original Complaint”) against certain of other parties to the 1994 Settlement,
17 pursuant to the Paragraph 9 reopener.

18 G. Defendant The Grubb & Ellis Realty Income Trust, Liquidating Trust
19 (“GERIT”) has not appeared and claims to have dissolved and to no longer exist, and thus is
20 not a party to this stipulation.

21 H. On September 15, 2008 Judge Edward M. Chen signed a stipulation and order
22 (Document No. 13) providing that, among other things, the defendants were deemed to have
23 denied each and every allegation in the Original Complaint, that defendants were deemed to
24 have filed crossclaims against each other for contribution and indemnity, and deemed to have
25 filed counterclaims for contribution and indemnity against Plaintiff.

26 I. Subsequent to the filing of the Original Complaint, certain parties agreed to
27 cooperate in jointly retaining an environmental consultant to respond to the RWQCB
28 Directives. The environmental consultant has been engaged with the RWQCB and the parties

1 have made substantial progress towards meeting the demands of the RWQCB.

2 J. Subsequent to the filing of the Original Complaint, the parties participated in
3 meditation with Timothy Gallagher, Esq., during which the parties engaged in an in depth
4 discussion and investigation relating to the factual background, ownership and operations of
5 the parties and their conduct which may have resulted in the PCE contamination. The parties
6 are still participating in mediation.

7 K. On July 14, 2010, plaintiff Palmtree Acquisition Corporation filed its First
8 Amended Complaint ("FAC"), adding Northrop Grumman Systems Corporation ("Northrop
9 Grumman") as a party. Northrop Grumman has settled this matter and been dismissed with
10 prejudice from this action; therefore, Northrop Grumman need not respond to the SAC.

11 L. On July 14, 2011 plaintiff Palmtree Acquisition Corporation filed its Second
12 Amended Complaint (the "Current Action" or "SAC"), clarifying plaintiff's intent to include
13 in the original complaint and/or adding defendants John McCorduck, Kathleen McCorduck,
14 Pamela McCorduck, Sandra McCorduck Marona, ("collectively the "McCorduck
15 Defendants") and IMA Financial Corporation.

16 M. The parties to this Current Action, who were defendants in the Prior Action,
17 filed answers in the Prior Action. Some parties also filed cross-claims in the Prior Action.

18 N. The responses and defenses in this Current Action should be substantially
19 similar to those raised by the parties in the Prior Action.

20 Therefore, in the interest of judicial economy, pursuant to Local Rule 6-1(b) and 7-12,
21 the parties below hereby agree and stipulate as follows:

22 **STIPULATION**

23 1. Each of the defendants in this Current Action, who have signed this stipulation
24 and proposed order, shall be deemed to have denied each and every allegation in the SAC.

25 2. The defendants to this Current Action, who have signed this stipulation and
26 proposed order, shall be deemed to have filed cross-claims against each other for contribution
27 and indemnity and to have filed counter-claims for contribution and indemnity against the
28 plaintiff.

3. Each of the defendants to this Current Action reserves the right to supplement its response to the SAC, and may file an answer and separate crossclaims or counterclaims at a later date, but no later than 60 days following the conclusion of mediation with mediator Timothy Gallagher, currently underway. Mediation will be concluded at such time as: (a) a settlement is reached, or (b) the mediator issues a letter concluding that a settlement has not been reached and the mediation is concluded. Each defendant has not waived the right to assert new affirmative defenses that were not asserted in the Prior Action.

4. Each of the defendants to this Current Action further reserves the right to file crossclaims against other third parties who are not parties to this Current Action, and the parties reserve any and all rights against such third parties. Each party reserves its right to file crossclaims against parties named in the Third Amended Third Party Complaint filed by third party plaintiffs Stark Investment Company and the Kirrberg Corporation. The plaintiff reserves the right to amend the complaint to add or remove allegations, to add new parties or to make any other changes consistent with the Federal Rules of Civil Procedure.

Wherefore, the Parties respectfully request that the Court approve this Stipulation.

Dated: July 26, 2011

COX, CASTLE & NICHOLSON LLP

By: /s/ Peter M. Morrisette
 Stuart I. Block
 Peter M. Morrisette
 Attorneys for Plaintiff
 PALMTREE ACQUISITION
 CORPORATION, a Delaware corporation
 f/k/a Catellus Development Corporation

Dated: July 26, 2011

BASSI EDLIN HUIE & BLUM LLP

By: /s/ Farheena A. Habib
 Farheena A. Habibi
 Attorneys for Defendants
 MICHAEL R. NEELY, an individual;
 PERRY J. NEELY, an individual; GARY
 NEELY, an individual; MICHAEL R.
 NEELY, PERRY J. NEELY and GARY
 NEELY dba MIKE'S ONE HOUR
 CLEANERS

1 Dated: July 26, 2011

GONSALVES & KOZACHENKO

2
3 By: /s/ Selena P. Ontiveros
4 Selena P. Ontiveros
5 Attorneys for Defendant
STARK INVESTMENT COMPANY, a
California general partnership

6 Dated: July 27, 2011

DONGELL LAWRENCE FINNEY LLP

7
8 By: /s/ Thomas F. Vandenburg
9 Thomas F. Vandenburg
10 Attorneys for Defendant
MULTIMATIC CORPORATION, a New
Jersey corporation

11 Dated: July 28, 2011

ROGERS JOSEPH O'DONNELL

12
13 By: /s/ Robert C. Goodman
14 Robert C. Goodman
15 Attorneys for Defendant
CHARLES FREDERICK HARTZ dba
PAUL'S SPARKLE CLEANERS;
CHARLES F. HARTZ, an individual

16 Dated: July 26, 2011

GORDON WATROUS RYAN
17 LANGLEY BRUNO & PALTENGI
18 INC.

19 By: /s/ Bruce Clinton Paltenghi
20 Bruce Clinton Paltenghi
21 Attorneys for Defendant
22 McCORDUCK PROPERTIES
LIVERMORE, LLC, a Delaware limited
23 liability company individually and as the
successor to JOHN McCORDUCK,
KATHLEEN McCORDUCK, PAMELA
24 McCORDUCK, SANDRA McCORDUCK
MARONA, and IMA FINANCIAL
CORPORATION, a California corporation

1 Dated: July 26, 2011

FOLEY MCINTOSH FREY & CLAYTOR

2
3 By: /s/ James D. Claytor
James D. Claytor
Attorneys for Defendant
WESTERN STATES DESIGN, a
California corporation

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5
6 Dated: July 26, 2011

THE COSTA LAW FIRM

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8 By: /s/ Daniel P. Costa
Daniel P. Costa
Attorneys for Defendant
STARK INVESTMENT COMPANY

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11 IT IS SO ORDERED

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13 Dated: August 3, 2011

